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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S  
RULING NO. C2001-1/9

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

Complaint on Sunday and Holiday Collections

Docket No. C2001-1

PRESIDING OFFICER'S RULING ON  
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE  
TO RESPOND TO INTERROGATORIES DBP/USPS-18-19

(Issued August 14, 2001)

On August 3, 2001, David B. Popkin filed a motion to compel the Postal Service to respond to interrogatories DBP/USPS-18 and 19.<sup>1</sup> Interrogatories DBP/USPS-18 and 19 concern retail window service, and purport to be follow-up interrogatories to DBP/USPS-8.<sup>2</sup> The follow-up interrogatories, with a motion for late acceptance included in the preamble, were filed on July 23, 2001. The Postal Service filed an objection to the interrogatories on July 27, 2001.<sup>3</sup> The Postal Service subsequently filed a response to the motion to compel on August 10, 2001.<sup>4</sup>

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<sup>1</sup> David B. Popkin Motion to Compel Responses to Interrogatories to the United States Postal Service [DBP/USPS-18-19] and Potential Motion for Late Acceptance, filed August 3, 2001 (Motion). The Motion was timely, therefore the included motion for late acceptance is moot.

<sup>2</sup> David B. Popkin Follow-Up Interrogatory to the United States Postal Service [DBP/USPS-18-19] and Potential Motion for Late Acceptance, filed July 23, 2001. David B. Popkin Interrogatories to the United States Postal Service [DBP/USPS-1-12], filed May 31, 2001.

<sup>3</sup> Objection of the United States Postal Service to Popkin Interrogatories DBP/USPS-18-19, filed July 27, 2001 (Objection).

<sup>4</sup> Response of the United States Postal Service in Opposition to the Popkin Motion to Compel Regarding DBP/USPS-18-19, filed August 10, 2001 (Response).

The response to the underlying interrogatory, DBP/USPS-8, was filed on July 13, 2001.<sup>5</sup> This response was subject to POR No. C2001-1/4 which limited the scope of the interrogatory, and compelled the Postal Service to respond.<sup>6</sup> The presiding officer's ruling found the interrogatory relevant, but limited the scope of the interrogatory to documentation at the national and/or headquarters level that came into existence within the previous three years of the filing of this Complaint. It also specified that the context of the interrogatory would be narrowed to holiday and holiday eve window service, and not the broader context of "days shortly before or after a holiday."

#### DBP/USPS-18.

Popkin states that the objective of follow-up interrogatory DBP/USPS-18 is to determine the extent to which retail window service was actually reduced or eliminated on days shortly before or after a holiday. Interrogatory DBP/USPS-18 states:

DBP/USPS-18. In your response to DBP/USPS-8, you indicated that there was no national **policy** relating to the elimination or reduction of retail window service on days shortly before or after a holiday. I would now like to determine the extent to which offices **actually did reduce** or eliminate retail window service on days shortly before or after a holiday. [a] Refer to the Postal News release [contained in USPS-LR-C2001-1/4] dated December 19, 1996, which relates to service on December 24 in the Utah area and advise the extent to which offices were in the category of "smallest post offices" as opposed to which offices were in the category of "larger offices". [b] Refer to the Postal News release [contained in USPS-LR-C2001-1/4] dated December 20, 1999, which relates to service on December 24 in the Utah area and advise the extent to which offices were in the category of "small rural post offices". [c] Please advise whether any offices in the geographic area referred to in the Postal News releases referred to in subparts a and b [apparently the Salt Lake City District containing all offices in the state of Utah] reduced or eliminated window service on Christmas eve in 1997, 1998, or 2000. [d] Please provide copies of any press releases relating to any positive response to

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<sup>5</sup> Compelled Responses of the United States Postal Service to Popkin Interrogatories DBP/USPS-1(b), 2, 3, and 8, filed July 13, 2001.

<sup>6</sup> POR No. C2001-1/4, issued July 6, 2001 (Ruling).

subpart c. [e] Please explain why different policies were in effect for this district in different years. [f] Furnish copies of all documents relating to the decision to provide different levels of service for the different years. [g] Refer to Exhibit 3 in the original complaint filed by Mr. Carlson and advise which offices in the Southeast New England District reduced retail window service on Friday, December 24, 1999. [h] Provide a listing of any other offices that actually did reduce or eliminate retail window service on a day shortly before or after a holiday in the period of January 1, 1998 to date.

In its Objection, the Postal Service argues that this interrogatory is untimely because the underlying interrogatory, DBP/USPS-8, explores the policy regarding holiday-related retail service adjustments, whereas this interrogatory explores the actual practice. Therefore, this interrogatory establishes a new line of inquiry. Observing that the deadline for new lines of inquiry has passed on June 22, 2001, the Postal Service concludes that this interrogatory is untimely.

The Postal Service notes that none of the material referenced in parts a-g of this interrogatory was provided in response to the underlying interrogatory, DBP/USPS-8. Parts a-f refer to material provided in response to DFC/USPS-31 and 40, filed on July 5, 2001. Part g refers to the original Complaint, filed last October. The Postal Service concludes that the period for follow-up on this material also has expired. The Postal Service's further position is that additional information provided concerning the referenced material would be immaterial in light of the material already provided.

The Postal Service objects based on relevance, materiality, burden, and timeliness, to the extent that the interrogatory seeks entirely new information, such as in part h. The Postal Service concludes that early closings were not based on national policy, thus available information, if any, would only be available at the local level. Citing the 38,000 Postal Service locations, it concludes that the burden to provide an answer would involve a process likely to take months to complete, and may not yield any tangible benefits.

The motion to compel a response to DBP/USPS-18 is denied. Part "h" of this interrogatory asks a broad and sweeping question to identify offices that actually

reduced or eliminated retail window services during holiday periods. In addition, parts "a" through "g" asks for further details of this practice for specific geographic areas that have been identified in interrogatories that were posed prior to the underlying interrogatory.

Typical purposes for follow-up interrogatories are to clarify a response to an underlying interrogatory, or to narrowly focus on and obtain more detail about a particular aspect of a response. Broad questions that may be appropriate at the beginning of a proceeding become less appropriate after close of discovery, when the list of issues for discussion should have been narrowed. The mail collection aspect of window service is relevant to the instant Complaint, but it has not been the Complaint's major focus. The Postal Service has indicated its general position on window service policy, and has given specific examples of where provision of window service has been modified. The question posed in interrogatory DBP/USPS-18 significantly expands upon and therefore is outside the scope of the issues presented thus far. Although including this issue may have been appropriate at the time the Complaint was filed, intervenor Popkin has not justified this broad request at this point in time.

#### DBP/USPS-19.

Popkin states that the Postal Service has indicated that there is no national policy for the elimination or reduction of retail window service. He concludes, however, that this elimination or reduction is occurring. Thus, Popkin states that interrogatory DBP/USPS-19 is an attempt to determine the authority for making the decision to eliminate or reduce retail window service. Interrogatory DBP/USPS-19 states:

In your response to DBP/USPS-8, you indicated that there was no national policy relating to the elimination or reduction of retail window service on days shortly before or after a holiday. During the period of January 1, 1998 to date, provide all documents on any policy, guidance, or recommendations for deciding, or establishing criteria for deciding, the elimination or reduction of retail window service on days shortly before or after a holiday, that were issued by any of the eleven area offices. For any of the eleven areas that did not have such policy, guidance, or

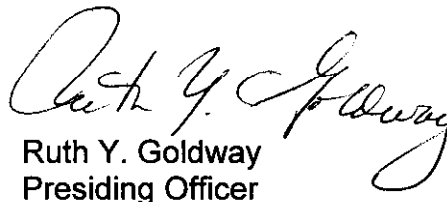
recommendation, provide the similar data for each of the districts contained in that area.

The Postal Service objects to answering this interrogatory because the scope of the underlying interrogatory, DBP/USPS-8, and thus this interrogatory, was specifically limited by POR No. C2001-1/4 to provision of data at the national and/or headquarters level. This interrogatory requests information at the area office or district level.

The motion to compel a response to DBP/USPS-19 is denied. POR No. C2001-1/4 specifically narrowed the provision of data for the underlying interrogatory to the national and/or headquarters level. This limitation addressed the Postal Service's burden concern, and provided for information at the national level, which is the most relevant in the context of this Complaint. A motion for reconsideration on this limitation was not forthcoming. Thus, interrogatory DBP/USPS-19 requests a response to an interrogatory that the presiding officer previously has indicated the Postal Service does not have to answer. Denying this motion does not preclude future argument on this topic based on the information already provided by the Postal Service.

#### RULING

The David B. Popkin Motion to Compel Respond to Interrogatories to the United States Postal Service [DBP/USPS-18-19] and Potential Motion for Late Acceptance, filed August 3, 2001, is denied.

  
Ruth Y. Goldway  
Presiding Officer